IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

DONOVAN MUSKETT,

Movant,

vs. NO.: 13-CR-00980 MCA
16-CV-00596 MCA/SMV

UNITED STATES OF AMERICA,

Respondent.

MOTION FOR EXTENSION OF TIME

Donovan Muskett, Defendant, by and through undersigned counsel Aric G. Elsenheimer moves the court to extend the time for filing his Reply to United States' Motion to Enforce Appellate Waiver in the Plea Agreement and Reply to Defendant's Motion to Correct Sentence Pursuant to 28 U.S.C. § 2255 for an additional two weeks, until October 3, 2016.

Mr. Muskett is requesting this additional two weeks in light of the Tenth Circuit's recent decision in *Golicov v. Lynch*, No. 16-9530. In *Golicov*, the Tenth Circuit held that "The [Immigration and Naturalization Act's] residual definition of 'crime of violence,' which expressly incorporates § 16(b)'s definition of that same term, is unconstitutionally vague in light of the Supreme Court's decision" in *Johnson v. United States*, 135 S.Ct. 2551 (2015). Given that the residual clause of section 16(b) of the INA and the residual clause of § 924(c) have identical language, the Tenth Circuit's decision in *Golicov* may bear on the Court's resolution of *Johnson*'s effect on Mr. Muskett's case. A two week extension of time is requested to 1) give undersigned counsel additional time to incorporate the holding in *Golicov* into Mr. Muskett's reply; and 2) to give counsel for the government, who is currently out of the office on training, additional time to review the *Golicov* decision in the event the parties may be able to reach an agreement regarding its bearing on *Johnson's* application to § 924(c).

Counsel for the government, Novaline Wilson, does not oppose this motion.

WHEREFORE, Mr. Muskett, by and through the undersigned counsel, respectfully requests that this Court extend the deadline to file his Response to United States' Motion to Enforce Appellate Waiver in the Plea Agreement and Reply to his Motion to Correct Sentence Pursuant to 28 U.S.C. §2255 for one additional two weeks, until October 3, 2016.

I HEREBY CERTIFY THAT on the
19th day of September, 2016, I filed the
foregoing electronically through the
CM/ECF system, which caused AUSA
Novaline Wilson to be served by electronic
means, as more fully reflected on the
on the Notice of Electronic Filing.

/s/ Aric G. Elsenheimer

Respectfully submitted,

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/s/ Aric G. Elsenheimer
ARIC G. ELSENHEIMER
Assistant Federal Public Defender